

Message Text

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DRAFTED BY L/EUR:DAGANTZ:MRP
APPROVED BY L/EUR:DAVID A. GANTZ
L - MFELDMAN(DRAFT)
EDJERJIAN
L/EB:GROSEN(DRAFT)

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C O N F I D E N T I A L STATE 123630

E.O. 11652: GDS

TAGS: EINV, EFIN

SUBJECT:COURT CASE -- MERIDIAN ENTERPRISES, INC.

1. CALIFORNIA ATTORNEY HAS BROUGHT TO THE DEPARTMENT'S ATTENTION A (BANKRUPTCY) COURT ACTION IN NIVELLES, BELGIUM INVOLVING THE ABOVE-MENTIONED COMPANY, REQUESTING USG ASSISTANCE. ACCORDING TO INFORMATION PROVIDED TO DEPARTMENT, MERIDIAN ENTERPRISES IS A CALIFORNIA CORPORATION WHICH HAS A BRANCH IN BELGIUM. BRANCH APPARENTLY OVEREXTENDED ITSELF WITH RESPECT TO INVENTORY; AS A RESULT, SOME OF THE CREDITORS BROUGHT ACTION IN BELGIAN COURT (LE TRIBUNAL DE COMMERCE), ALLEGEDLY WITHOUT PERMITTING MERIDIAN TO DISCUSS FULLY EITHER ORALLY OR IN WRITING, DECLARED CORPORATION AS A WHOLE TO BE BANKRUPT. MERIDIAN ATTORNEY SAYS HE HAD SOUGHT ASSISTANCE FROM BELGIAN AUTHORITIES (MR. VAN PRAET OF MINISTRY OF ECONOMIC AFFAIRS, MR. TRIQUET, BINGERMEISTER OF NIVELLES) WITHOUT SUCCESS TO DATE (APPARENTLY FOR SEPARATION OF POWERS

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REASONS). COMPANY PLANS TO APPEAL THE CASE BUT FEAR THAT BY THE TIME APPEAL IS ACTUALLY HEARD (PROBABLY LATE THIS YEAR) BRANCH'S INVENTORY WILL ALREADY HAVE BEEN LIQUIDATED TO MEET CREDITORS' CLAIMS. MERIDIAN'S SITUATION MADE

EVEN MORE DIFFICULT BY FACT THAT UNDER BELGIAN LAW CREDITORS OR OTHER PARTIES WHO DO NOT COMPLY FULLY WITH

THE COURT'S ORDER APPARENTLY COULD FACE DIRECT LIABILITY; ONE OF PRINCIPAL BRANCH CREDITORS IS UNITED CALIFORNIA BANK, WHICH ALSO HAS EXTENSIVE LOANS TO CORPORATION IN CALIFORNIA. THUS, ATTORNEYS FEEL THAT BELGIAN COURT ACTION COULD THREATEN CONTINUED VIABILITY OF PARENT CALIFORNIA CORPORATION IN CALIFORNIA AS WELL AS BRANCH.

2. IF BELGIAN COURT HAS IN FACT ATTEMPTED TO EXERCISE JURISDICTION (EXTRATERRITORIALLY) NOT ONLY OVER MERIDIAN BRANCH IN BELGIUM BUT OVER MERIDIAN ENTERPRISES IN CALIFORNIA (AN ACTION WHICH ACCORDING TO ATTORNEYS IS NOT PERMITTED BY BELGIAN CIVIL LAW), CASE COULD HAVE IMPLICATIONS FOR MORE GENERAL U.S. INTERESTS.

3. DEPARTMENT WISHES TO AVOID INTERFERING IN JUDICIAL PROCESS OF A FRIENDLY NATION. HOWEVER, IN VIEW OF THE APPARENT NATURE OF THE DECISION, WE DO NOT BELIEVE IT WOULD BE INAPPROPRIATE FOR EMBASSY TO INDICATE TO GOB AT AN APPROPRIATE LEVEL THAT U.S. CORPORATION HAS MADE US AWARE OF A PROBLEM WITH RESPECT TO EXTRATERRITORIAL APPLICATION OF BELGIAN BANKRUPTCY LAW. EMBASSY SHOULD INDICATE THAT WHILE WE HAVE NO INDEPENDENT SOURCE OF INFORMATION, NOR WISH TO INTERFERE IN BELGIAN COURT SYSTEM OR TO TAKE A POSITION ON APPLICABILITY OF BELGIAN LAW TO BRANCH OF U.S. CORPORATION IN BELGIUM, USG DOES HAVE AN INTEREST IN BROADER ISSUES RAISED BY THE CASE. WE WOULD THUS APPRECIATE RECEIVING AS SOON AS POSSIBLE ANY INFORMATION ON THE CASE WHICH COULD BE PROVIDED BY FOREIGN MINISTRY OR OTHER BELGIAN AUTHORITIES.

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4. MERIDIAN IS REPRESENTED IN BRUSSELS BY OTTO GROLIG AND PAUL HERTENS OF BAKER AND MCKENZIE. EMBASSY MAY WISH TO CONTACT THEM TO OBTAIN MORE INFORMATION BEFORE CONTACTING GOB.

5. SUBSEQUENT TO DRAFTING OF ABOVE, DEPARTMENT RECEIVED FOLLOWING INFORMATION:(A) MERIDIAN ENTERPRISES, INC. IS A DISC, WITH -BELGIAN BRANCH A SALES OFFICE ONLY; (B) A SEPARATE BELGIAN CORPORATION, INREP, S.A., ASSOCIATED WITH MERIDIAN HAS NOW ALSO BEEN DECLARED BANKRUPT, WITH ASSETS FROZEN, APPARENTLY BECAUSE BELGIAN COURT FEELS THEY ARE ONE AND THE SAME ENTITY. (ATTORNEY DOES NOT QUESTION BELGIAN COURT'S JURISDICTION OVER INREP.) VANCE

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